

MOTION FILED FEB 13 1963

**IN THE
SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1963

No. ~~100~~ 69

LEVIN NOOK DAVIS, ET AL.,

Appellants,

v.

HARRISON MANN, ET AL.,

Appellees.

**MOTION OF APPELLERS MANN, STONE, WEBB AND
DONOVAN TO VACATE STAY OR, IN THE ALTER-
NATIVE, TO ADVANCE FOR HEARING.**

**EDMOND D. CAMPBELL,
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*Attorneys for Appellees,
Mann, Stone, Webb and
Donovan.***

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1962

No. 797

LEVIN NOCK DAVIS, ET AL.,

v.

HARRISON MANN, ET AL.,

Appellants,

Appellees.

**MOTION OF APPELLEES MANN, STONE, WEBB AND
DONOVAN TO VACATE STAY OR, IN THE ALTER-
NATIVE, TO ADVANCE FOR HEARING.**

Appellees, Harrison Mann, Kathryn Stone, John C. Webb and John A. K. Donovan, respectfully move the Court to vacate the temporary stay of the lower court's order heretofore granted by the Chief Justice, or in the alternative to advance this case for hearing.

The lower court found that invidious discrimination exists in the statutory apportionment of Virginia's legislative districts and refused a stay because of the impending election of a new Legislature. Party primary elections are now set by state statute for July 9, 1963; the general election for November 5, 1963. The State Senate, elected at the next general election, will serve until January, 1968; the House of Delegates until January, 1966.

If the stay is now vacated, ample opportunity exists for the State to set its own house in order by fair legislative

reapportionment through a special session of the General Assembly called for that purpose. The General Assembly could also, if necessary, extend the time for filing in, and holding the 1963 primary elections. Reapportionment legislation, if adequate, could be adopted promptly in a judicial decree, thus avoiding the effect of Section 53 of the Virginia Constitution which provides that statutes do not take effect until ninety days after adjournment unless passed by a four-fifths vote.

If the stay is soon vacated, appellees can be given relief effective in 1964. Otherwise the invidious discrimination will continue until 1968—unless, in the alternative, the case is advanced for prompt decision by this Court.

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Proof of Service

I, EDMUND D. CAMPBELL, one of the attorneys for the appellees Mann, Stone, Webb and Donovan herein, and a member of the bar of the Supreme Court of the United States, hereby certify that on the 12th day of February, 1963, I served copies of the foregoing Motion on the several appellants and appellees (intervening plaintiffs below) by

mailing same in duly addressed envelopes, with first-class postage prepaid, to their respective attorneys of record as follows: The Honorable Robert Y. Button, Attorney General of Virginia, Supreme Court-State Library Building, Richmond 19, Virginia; David J. Mays, Esquire, State-Planters Bank Building, Richmond 19, Virginia; Henry E. Howell, Jr., Esquire, 808 Maritime Tower, Norfolk, Virginia, and Leonard B. Sachs, Esquire, Citizens Bank Building, Norfolk, Virginia.

EDMUND D. CAMPBELL.

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